

Sunset Public Hearing Questions for  
**Industrial Development Division, Building Finance Committee**  
Created by Section 4-14-109, *Tennessee Code Annotated*  
(Sunset termination June 2013)

1. Provide a brief introduction to the Building Finance Committee, including information about its purpose, statutory duties, staff and administrative attachment.  
Communities engaged in the process of financing the purchase and/or development of industrial properties find it requires a legal document known as a "Certificate of Public Purpose and Necessity." To obtain said certificate, the community finds itself having to deal with lawyers, bond houses, engineers, and government officials devoted to the details of this administrative procedure. TCA 4-14-109 provides that a Building Finance Committee is created in the industrial development division of the department of economic and community development. The reason it was formed is because five Tennessee statutes call for Committee approvals of industrial and entertainment development financing schemes. Those are the Industrial Park Act (TCA 13-16-201 et seq.), Local Government Public Obligations Law (TCA 9-21-101 et seq.), the Industrial Building Bond Act (TCA 7-55-101 et seq.), the Industrial Development Corporations Act (TCA 7-53-101 et seq.), and TCA 6-54-117 pertaining to entertainment facilities. The Committee has only one function. It considers applications for Certificates of Public Purpose and Necessity and either issues or denies them. Copies of the applications along with staff comments are sent to the members for their review. A meeting is arranged and public notices are posted. The Committee hears the applicant's presentation and asks questions about the project. The criteria by which the project is judged is basically that it is a viable financial project, will create jobs, will support itself and is not likely to become a burden upon the taxpayers. The rules and specifications for making application to the Building Finance Committee are found at Chapter 0500-2-1. The Committee shall reach certain findings cited at 0500-2-1-.12(6), namely:

The Committee will review all evidence and documents presented and on the basis of these facts, and before a Certificate is issued, must favorably find that the industrial park or site project: (a) is well conceived and has a reasonable prospect of success, (b) that there is good probability that the project will be self-sustaining from the sale and lease of land and fees charged for services, utility revenues, and taxes resulting from the development of the project, (c) will provide proper economic development of the municipality and will encourage industry to locate there, (d) will not likely become a burden upon the taxpayers, and (e) that there are adequate property values and suitable financial conditions, so that the total bond indebtedness of the municipality, solely for the purpose authorized by these acts, shall not exceed ten percent (10%) of the total assessed valuation of all property in the municipality ascertained by the last completed assessment at the time of the issuance of such bonds or notes.

An affirmative finding of these criteria is formalized as a motion passed by the Committee and recorded on paper as this much needed document known as a Certificate of Public Purpose and Necessity. This is provided to the successful

applicant and is in effect for a period of three years. After obtaining this document, the applicant may proceed with the sale of the bonds, notes, etc. A Certificate is an empowerment and does not mandate that the municipality actually follow through with a bond or note issue.

TCA 4-14-109 (f) specifies that the director of the industrial development division shall serve as secretary to the Committee. Presently, this duty has been delegated to the department's Attorney/Director of Contracts Unit. While not specifically stated in the TCA, the rules promulgated pursuant to these acts provide that the advisory staff to the Committee consists of personnel from the Office of the Attorney General (legal opinions), Office of the Comptroller (bond and local finance expertise), and Department of Economic and Community Development (site engineering and project cost expertise). Staff serving the Committee is listed below:

Brigitte Tubbs-Jones, BFC Secretary/ECD Attorney and Director of Contracts Unit  
Department of Economic and Community Development

Michael Atchison, Research Projects Coordinator  
Department of Economic and Community Development

Ann Louise Vix, Senior Counsel  
Office of the Attorney General

Mary-Margaret Collier, Director of State and Local Finance  
(designee: Ron Queen, Manager of State Local Finance)  
Office of the Comptroller of the Treasury

2. Provide a list of current committee members and describe how membership complies with 4-14-109(b), *Tennessee Code Annotated*. Are there any vacancies on the committee? If so, what steps have been taken to fill the vacancies?

**Chairman**

Randall L. Gibson  
Chief Operating Officer/General Counsel, Lawler-Wood Real Estate Development  
1600 Riverview Tower, 900 South Gay Street, Knoxville, TN 37902-1857  
865-637-7777  
rgibson@lawlerwood.com  
Term expires: 6/30/15

**West Tennessee**

Lonnie M. Haley, III  
General Contractor  
1040 Richland Drive, Memphis, TN 38116-8216  
901-484-5834  
lmhaley@msn.com  
Term expires: 6/30/14

**West Tennessee**

Michael P. Sadler  
Financial Services representative  
6522 Birch Walk Drive, Memphis, TN 38115  
901-270-7156  
Mpsadler1@gmail.com  
Term expires: 6/30/12

**Middle Tennessee**

Stephen Betts  
Financial Services representative  
4907 Roselawn Circle, Nashville, TN, 37215  
615-373-1971  
scarterbetts@comcast.net  
Term expires: 6/30/12

**Middle Tennessee**

Debbie C. Small  
President, Community Bank & Trust  
575 South Main Street, Ashland City, TN 37015  
615-792-0029  
Debbie.small@cbtcc.com  
Term expires: 6/30/14

**East Tennessee**

Scot Braun  
Managing Director, Gray Shadow Financial Services, LLC  
PO Box 2735, Knoxville, TN 37901-2735  
(877) 575-9925, (865) 851-1381 cell  
scot@grayshadowfinancial.com  
Term expires: 6/30/12

**East Tennessee**

Frank (John F.) McGuffin  
Executive with Tidi Waste Systems  
P.O. Box 1639, Morristown, TN 37816  
423-581-5655  
frank@tidiwaste.com  
Term expires: 6/30/14

Presently there are no vacancies on the committee.

3. Does membership include a member who is sixty years of age or older? Yes, 2 members are 60 or older. A member who is a racial minority? Yes. A member who is female? Yes.
4. What per diem or travel reimbursement do members receive? How much was paid to committee members during fiscal years 2011 and 2012? All reimbursement for travel

expenses, when applicable, is in accordance with the provisions of the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter. No per diem or travel reimbursement was paid to committee members during fiscal years 2011 and 2012 since the majority of the Committee's meetings are held via conference call.

5. What were the committee's revenues (by source) and expenditures (by object) for fiscal years 2011 and 2012? The committee had no revenues or expenditures for fiscal years 2011 and 2012.
6. How many times did the committee meet in fiscal years 2011 and 2012, and how many members were present at each meeting? The committee did not meet in FY 2011, but will have met four times FY 2012. A quorum was present at the above meetings.
7. Is the committee subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes and public access to minutes? Yes. If so, what procedures does the committee have for informing the public of its meetings, who keeps the official minutes of committee meetings and what steps are taken to make the minutes available to the public? Public notices are published in the applicant's local newspaper at least 10 days prior to the meeting along with posting it at Legislative Plaza in Nashville. The Committee's Secretary keeps the official minutes of committee meetings. Minutes and other relevant meeting documents are available to the public upon request.
8. What were the major accomplishments of the committee during fiscal years 2011 and 2012? Specifically what orders, findings, acts and/or certificates were issued during that period? The major accomplishments were the modification of two certificates and the issuance of three new ones. The Committee deemed them as viable financial projects that will create jobs, will support themselves and will not likely become a burden upon the taxpayers.
9. How many applications did the committee approve during fiscal years 2011 and 2012 for certificates of public purpose and necessity (as authorized by Section 7-53-307, *Tennessee Code Annotated*) to allow a municipality to pledge the full faith and credit of the municipality as surety to the payment of principal and interest of bonds? How many, if any, applications were rejected and for what reasons? The Committee approved three applications for certificates. All were deemed viable projects and no applications were rejected during FY 2011-12.
10. How many applications did the committee approve during fiscal years 2011 and 2012 for certificates of public purpose and necessity (as authorized by Section 7-55-106, *Tennessee Code Annotated*) to allow a municipality to engage in enterprises deemed essential and in compliance with public welfare demands and sound state public policy requirements? How many, if any, applications were rejected and for what reasons? The Committee approved the modification of two certificates. Both were deemed viable projects and no applications were rejected during FY 2011-12.

11. What reports does the committee prepare on its operations, activities and accomplishments and who receives the reports? Minutes and other relevant meeting documents are submitted to the Secretary of State's office in compliance with statute. No other reports are prepared.
12. Does the committee have any policies in place to address potential conflicts of interest by committee members, committee employees, or other state employees who work with the committee in any capacity? If yes, please describe. During every meeting, committee members are asked whether they have a personal conflict with the project being discussed. If so, they must disclose that conflict and abstain from voting on that particular application. If more than one application is being heard that day, member may vote on the application for which no conflict exists.
13. Describe any items related to the committee that require legislative attention and your proposed legislative changes. T.C.A. 4-14-109 houses the Building Finance Committee in the Industrial Development Division within the Department of Economic and Community Development. It may prove more effective for the Committee to be housed with the Comptroller's Office, Division of Local Finance.
14. Should the committee be continued? To what extent and in what ways would the absence of the committee endanger the public health, safety or welfare? The Committee serves a very important purpose and should be continued.
15. Please list all committee programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

[Federal financial assistance includes:

- (1) Grants and loans of Federal funds,
- (2) The grant or donation of Federal Property and interests in property,
- (3) The detail of Federal personnel,
- (4) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and
- (5) Any federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

*28 C.F.R. Sec. 42.102(c)*

[The term recipient means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any

program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

28 C.F.R. Sec. 42.102(f)]

The Committee does not receive any federal funding.

***If the committee does receive federal assistance, please answer questions 16 through 23. If the committee does not receive federal assistance, proceed directly to question 22.***

16. Does your committee prepare a Title VI plan? If yes, please provide a copy of the most recent plan.
17. Does your committee have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues. Not applicable
18. To which state or federal agency (if any) does your committee report concerning Title VI? Please describe the information your committee submits to the state or federal government and/or provide a copy of the most recent report submitted. Not applicable
19. Describe your committee's actions to ensure that committee staff and clients/program participants understand the requirements of Title VI.
20. Describe your committee's actions to ensure it is meeting Title VI requirements. Specifically, describe any committee monitoring or tracking activities related to Title VI, and how frequently these activities occur.
21. Please describe the committee's procedures for handling Title VI complaints. Has your committee received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).
22. Please provide a breakdown of current committee staff by title, ethnicity, and gender. There are a total of eleven (11) Building Finance Committee staff. The Staff is composed of seven (7) voting committee members appointed by the Governor, two (2) ECD employees –Attorney/ Contract Director and Special Projects Manager, a representative from the Attorney General's office and a representative from the Comptroller's Office, Division of State and Local Finance. The Committee members' occupations include real estate development, banking/financial services industry as well as the Construction Industry. The Committee staff is composed of eight (8) males and three (3) females. There are six (6) Caucasian males, two (2) Caucasian females, two (2) African-American males, and one (1) African-American female.

23. Please list all committee contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner. There are no committee contracts.